

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 19**

PACIFIC SCIENCE CENTER FOUNDATION¹

Employer

and

Case 19-RC-13994

SERVICE EMPLOYEES INTERNATIONAL
UNION, LOCAL NO. 6, AFL-CIO²

Petitioner

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board, hereinafter referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record³ in this proceeding, the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.
3. The labor organization involved claims to represent certain employees of the Employer.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

All employees employed by the Employer at its Seattle, Washington, facility; but excluding all office clerical employees; teachers, instructors, summer camp assistants, summer camp teacher aides; traveling exhibit lead, courtesy caller, professional employees, confidential employees, managerial employees, and guards and supervisors as defined by the Act.

¹ The name of the Employer appears as corrected at hearing.

² The name of Petitioner appears as corrected at hearing.

³ The parties filed briefs, which have been considered.

The Employer is a private nonprofit foundation engaged in the operation of a science museum in Seattle, Washington. The petitioner requests a unit of certain employees, as set forth more fully below. The Employer contends that the only appropriate unit is one including all employees. In addition, Petitioner contends that certain employees are confidential employees, professional employees, or managerial employees, and the Employer contends that floor coordinators are statutory supervisors.

The Seattle facility offers science-as-family entertainment in the form of interactive exhibits and activities such as Science Playground (“Physics on a grand scale”); TECH Zone (“Try your hand at Virtual Hoops”); Brain Games; Animal Attractions; Tropical Butterfly House; Insect Village; Robot Zoo and IMAX films. The facility is open to the general public, offering access by a one-time-only admission charge, or a yearly membership. The Employer also provides educational programs to schools and teachers, most notably the Science on Wheels (“SOW”) program, which offers traveling exhibits and demonstrations on various topics.

The Employer is organized into six divisions: Finance and Planning; Education; Development; Membership, Group and Event Sales; Public Programs and Visitor Services; and Science⁴. Petitioner seeks to represent employees in three: Finance and Planning; Public Programs and Visitor Services; and Science. There are a large number of job classifications in the various divisions, as set forth below. The parties are in agreement that all employees sought by Petitioner should be included in the Unit. The Employer contends that the Unit must also include employees in the three other divisions - Education; Development; and Membership, Group and Event Sales – must also be included, as well as certain classifications in Finance and Planning, and in Public Programs and Visitor Services that Petitioner would exclude.

Finance and Administration Division.⁵

This division is under the overall management of associate director Carole Grisham. Acknowledged Unit employees in this division include the food services staff who work in the café, and at concession stands and popcorn and espresso carts. They prepare food, assist customers, and cashier, reporting directly to Jim Riley, food services manager. They are part-time with variable hours which may include weekends. The record does not reveal any educational or specific skill requirements for the position. These employees are paid \$7.18 to \$7.85 per hour. There are about 16 food service employees. The parties stipulated that, in addition to Riley, Teri Youngers, assistant food services manager, and Dan Oswalt, food services coordinator, are statutory supervisors.

Other acknowledged Unit employees in the division are the store sales associates who work under Manager Thea Bailey in two stores: the Explore More Store in the Eames IMAX theater building and a second store located near the Boeing IMAX theater. They do the stocking, cleaning, customer service, and cashiering in the stores. These employees are part-time, work both weekdays and weekends, and are paid \$6.50 to \$7.85 per hour. The record does not reveal any educational or specialized skill requirements for the position. The parties stipulated that, in addition to Bailey, Jaime Lynne Simmons, Explore More

⁴ The names of the divisions should not be relied upon as necessarily descriptive of the function of the department.

⁵ In addition to individuals in Finance and Administration named elsewhere, the parties stipulated that the following are statutory supervisors or excluded managerial employees: Carole Grisham, associate director; and Linda Olson, human resources manager. In addition, the parties stipulated that the following employees in Finance and Administration are confidential employees: Leslie Jackson, finance & planning administrative assistant; Susan Gosling, HR/safety coordinator; Tammy Smith and Donna Smith, payroll/benefits coordinators; Mary Ann Cerdana, HR administrative assistant.

Store assistant manager; Stacy White, inventory controller; and Rassa Graumans, merchandise coordinator, are statutory supervisors or excluded managerial employees.

Employees in this division who are at issue include two accountants, an accounts receivable and grant analyst, an accounts payable bookkeeper, and two accounting clerks. The accounting employees report directly to Controller Gary Streicher, stipulated by the parties to be a statutory supervisor. Petitioner contends that accounting employees are excluded from the Unit because they are office clerical employees who lack a community of interest with the bargaining unit in that they work different hours (i.e., traditional business hours on weekdays), work in a separate office area of the facility, have different skills and perform different duties than unit employees, and do not interchange with Unit employees.

The accountants perform traditional accounting functions. Petitioner also contends that they are professional employees. One accountant has a bachelor's degree in accounting; the other has a bachelor's degree in administrative sciences. They maintain the general ledger, balance the general accounts, ensure that financial information from other divisions is correctly entered into the computer, and prepare various reports. They are paid an annual salary of \$29,266, or about \$14.50 per hour, based on a 40-hour week.

The "accounts receivable and grant analyst" handles accounts receivable for the facility, and in addition deals with accounts concerned with specific grants, monitoring the financial requirements of the grants, determining allowable costs, and developing procedures to assure that all specific requirements of the grant funding are met. The incumbent has an accounting certificate from a business college and is paid \$12.35 per hour.

The bookkeeper handles all accounts payable for the facility, receives and processes invoices, ensuring that they are entered into the correct accounts, and that checks are written and mailed to suppliers and vendors. The incumbent was hired only two days prior to the opening of the hearing and is paid \$10.87 per hour.

The two accounting clerks count cash, prepare daily revenue reports, dispense petty cash, handle copier repairs throughout the facility, process outgoing mail, and order and maintain staff uniforms. The record does not reveal their educational level. The accounting clerks are paid \$9.56 per hour.

The accounting employees work in the main office area located on the lower floor of the facility. They are all full-time employees, working regular business hours, Monday through Friday. They have little contact with acknowledged Unit employees; the accounting clerks have more such contacts than do the other accounting employees because the visitor services employees who work in the ticket booths visit the accounting office at the beginning and end of their shifts to pick up and return their cash bags, a process which involves counting the money each time. Accounting employees do not have regular contacts with the public and do not regularly interchange with Unit employees.

Education Division.⁶

This division offers programs to selected school audiences, both students and teachers. Major functions performed by the Education division include Science on Wheels, teacher education, enrichment programs, and exhibit outreach. Petitioner would exclude all employees in this division.

Science on Wheels presents exhibits and demonstrations off-site in elementary and middle schools throughout the State of Washington. Last year, SOW vans visited schools in every county in the state; 50 percent of such visits were in the Puget Sound (i.e., greater Seattle and surrounding communities) area, 23 percent were in other parts of Western Washington, and 26 percent were in Eastern Washington.⁷ SOW has seven 15-16 passenger cargo vans, each with a theme, with relevant graphics painted on the exterior. The themes are: Blood and Guts, Physics on Wheels, Rock and Roll, Space Odyssey, TECH, Brain Power, and Waste Busters.

Each van is normally staffed by two teachers. The normal procedure is that upon arrival at the scheduled school, the teachers set up numerous table-top exhibits in a library or classroom. These exhibits are similar to those used in the on-site Science Center facility, on Discovery Carts. The teachers provide brief training to adult volunteers who then oversee the progress of groups of children through the exhibit area. The teachers then set up a larger demonstration of a topic, similar to those offered on the floor of the Science Center by science demonstrators, and present the demonstration to school assemblies. In addition, they visit individual classrooms.

SOW teachers are employed full-time on a salary of \$22,610 per year for a 10-month period corresponding to the school year. Lead SOW teachers are employed year-around at a salary of \$25,688 per year (about \$13.00 per hour). Of the nine SOW teachers, including three leads, for which there is such evidence in the record, all have bachelor's degrees, but not necessarily in scientific subjects or in education: Their degrees are in: natural resources and education; microbiology; geology; political science and psychology; English; anthropology; geology; chemistry and earth science; and psychology. A teaching certificate or equivalent experience is also required. Preferred prior experience includes teaching at the elementary level, delivery of interactive programs, and presentation of formal/informal programs. The record does not establish the proportion of SOW teachers who return from one year to the next.

⁶ The parties stipulated that the following individuals in the Education division are supervisors within the meaning of the Act, or are managerial employees: Dennis Schatz, associate director; Felicia Maffia, exhibit outreach manager; Catherine Valiant, Science on Wheels manager; Cheryl Lydon, manager of teacher education; Paula Williams, enrichment education manager; Michee Wallace, exhibit outreach supervisor; Jeny Carlson, SOW operations supervisor; Melissa Thompson, Math & Rock supervisor; Elle Polsky, registration supervisor; Karrie Berglund, POW & TECH supervisor; Same Wilder, Waste Busters supervisor; Lita Fonda, Brain Power supervisor; April Wedman, Space & BAG supervisor; Len Adams, community leadership supervisor; Paul Allan, teacher education supervisor; Celia Day, community education/story book science supervisor; Heather Gibbons, summer camps & special youth program supervisor; Karen Ng, family programs coordinator/lead teacher; Shannon Brown, camp-in supervisor; Kristen Clapper, Mercer Slough supervisor; Gretchen Montgomery, camp-in coordinator; Gregg Burke, Mercer Slough coordinator; Christopher Fajardo, education material supervisor.

⁷ The geography of Washington is such that while round-trip visits to counties in Western Washington might be accomplished within a single day, visits to counties in Eastern Washington entail a two-hour drive across a mountain pass each way and could reasonably be expected to require at least one overnight stay.

An SOW lead teacher, Samuel Chamberlain, was previously employed as a science interpreter. Jill Warner, who was employed as an SOW teacher during the 1999-2000 school year, is currently employed as a science demonstrator.

Teacher Education offers science education workshops to schoolteachers. There is currently one teacher education lead, Brian Anderson, who presents the workshops in classrooms in the Employer's facility and at other locations in Washington. He is employed full time, and earns an annual salary of \$25,688 per year. Anderson has a bachelor's degree in anthropology and a teaching certificate.

Included in the Teacher Education function are three science education associates ("SEAs"). This is a full-time position with limited tenure, from August 2000 to June 2001. It is an elementary science educator internship. The incumbents divide their time serving as SOW teachers, mentoring the Science Champions program, and developing next year's Science Champions program. The Science Champions program is offered at five locations around the state. Groupings of a teacher and five students attend a one-day workshop; later the students teach the workshop materials to other students in their schools. The current SEAs all have Master's degrees; two have such degrees in education and have teaching certificates; the third has a Master's in biology.

The "Enrichment" portion of the Education Division includes community education teachers, Mercer Slough teachers, summer camp teachers, camp-in instructors and nurse, and the education materials specialist.

There are currently four community education teachers. All have bachelor's degrees (in various subjects), and one also has a teaching certificate. One of them, Craig Johnson, is employed full-time and is paid an annual salary of \$22,610. Apparently the others are part-time, but it is unclear whether they work part-time year-around, or work full-time during ten months of the year. They go out to community centers and schools with exhibits and demonstrations, but make a more limited presentation than that offered by SOW teachers, in that they would do only an assembly or only an exhibit area, or only classroom experiences, but not all three.

There is also a community education developer, Anna Larson, who has a Ph.D. in physics. She is hired from time to time to develop a specific project, such as a workshop for a camp-in or summer camp. Larson recently worked for a period of six months on the "Aliens, Worlds of Possibilities" exhibits. The record is unclear as to whether Larson is currently employed. No party contends she is an independent contractor or casual employee.

A program focusing on the outdoor environment is offered at the Mercer Slough facility, which is located in a 320-acre park in the city of Bellevue, about 10 miles east of Seattle. The facility includes a three-bedroom house and one-room classroom building. The program is available only to pre-registered groups, both school and public. There are six Mercer Slough teachers. All have bachelor's degrees, four in biology, one in psychology; one has a master's in ecology. They are part-time employees who are paid \$10.87 per hour. The record contains contradictory testimony as to whether they spend all of their time at the Mercer Slough location, or spend 90 percent of their time there and the rest at the facility.

The Enrichment function also offers one-week summer camps, apparently day camps, for children at the Pacific Science Center facility. About nine summer camp teachers were employed at the time of the hearing. The job description states that a bachelor's degree in the "content area" of the camp is required, and seven of the nine have such degrees. There are also about eight summer camp assistants, and about six summer camp teacher aides. The aide's job description likewise requires a bachelor's degree in the content area of the camp, but none in fact has a college degree. The assistant position

requires only a background of unspecified nature in the content area of the camp, with preference for a bachelor's degree; none in fact possesses one.

Most of the summer camp activity takes place in a classroom setting in the Rotary Discovery Lab area of the Employer's facility. Campers may also visit the Butterfly House or see an IMAX film, or even make a two-day excursion to Mt. St Helens. The teachers deliver a prepared curriculum program to the students, who range in age from five to 15. There are about 15 different summer camp topics offered. Summer camp is offered annually from the last week in June to the last week in August. There are a total of 21 summer camp teachers, but not all of them are present during any one week during the summer. The Employer gives hiring preference to current employees, and solicits the return of outside individuals from year to year. There is no specific evidence with respect to the number of summer camp teachers who have returned from year to year.

There is also a camp-in program in operation annually from about the end of January to the beginning of June. The program provides an overnight "camping" experience, usually on a Friday or Saturday night, inside the Pacific Science Center exhibit hall. Two hundred to 600 children participate in each camp-in. The program employs camp-in instructors and a camp-in nurse.⁸ There are six instructors present at any one time during a camp-in.⁹ There was a pool of about 51 instructors during the 2000 camp-in season. About 30 camp-ins are held each year. An instructor is paid for 18 hours for a camp-in, and different instructors work different camp-ins. There is no evidence with respect to how often any one instructor works during the season. Camp-in instructors are required to have a bachelor's degree in science, education, or a related field, or be college students pursuing such degree. Candidates with associate degrees may also be considered.

The instructors greet the participants, present workshops, help move the participants from one area to another, help participants get their gear, tell them where to sleep, and monitor overnight activities. Of the 51 instructors employed in 2000, 34 returned from 1999. Some instructors are otherwise regular employees of the Employer. Also present in the facility during camp-ins are food, IMAX, and gift shop staff.

In addition to the various "teachers" in the Education division, there are three other classifications: the education materials specialist, travelling exhibits lead, and registrars. The education materials specialist, Dean Paris, assists with inventory of supplies and maintenance of exhibits for the division. This includes gathering the materials needed by each SOW or other van, making sure the exhibits are correctly loaded into the vans, and gathering and assembling materials handed out in the camp programs. Most of Paris's work time is spent in a warehouse on First Avenue south of Safeco Field, a few miles from the Pacific Science Center facility. The record does not reflect any other persons working at that site.

The "traveling exhibits lead" works in connection with the Employer's exhibit outreach program, which rents exhibits to museums and other venues around the world. The travelling exhibit lead, Tom Walsh, travels to the location where the exhibit is to be displayed, oversees the exhibit's setup, and then returns at the end of the rental period for its take-down. Such locations currently include places within Washington state, Philadelphia and Spain. An example of such an exhibit is one displaying five robotic whales. Walsh spends about 80 percent of his work time away from the Employer's facility.

⁸ The parties stipulated that the camp-in nurse, who is required to be an RN, is a professional employee.

⁹ The record does not reflect the nature of other adults who presumably are present to handle a crowd of children of this size.

There are five registrars. They book school classes that make field trips to the Pacific Science Center facility and also book the SOW visits to schools. One part of their work includes the booking and registration of the summer camp and camp-in participants. They spend their work time at their desks located on the lower level of Building 2, utilizing computers. It appears that their work is largely of a clerical nature. They are full-time employees who work Monday through Friday, and are paid \$8.45 per hour.

The position of administrative specialist for education, which had been vacant since December 1999, was filled during the course of the hearing. The new hire, Sarah Ahrens, does clerical work for Dennis Schatz, but does not handle any correspondence concerning budgetary or personnel matters. The position is full-time, and pays \$10.87 per hour. It requires the ability to type 60 words per minute, take dictation, and use word processing software.

There is also a SOW office assistant, who keeps track of the schedules for the vans, including notifying the SOW staff of any changes in staffing or equipment. She also registers the schools for the Waste-Busters van, orders supplies for the office area, maintains the laser printer, and does filing. The record does not reveal her hours of work or wages.

In addition, there is an education administrative assistant who reports to Cheryl Lydon, the manager of teacher education. She assists in copying materials for workshops, tracking the number of people participating in teacher education and enrichment programs, and takes care of the laser printer. The position is full time and pays \$12.35 per hour. It requires computer skills, particularly in using Microsoft Office software.

Development Division.¹⁰

“Development” employees include an administrative assistant, data processing employees, and the major gifts associate. The Development division is responsible for fund raising, including direct solicitation and grant proposals, and for the goodwill of corporate donors. Petitioner seeks to exclude all employees in the Development division from the Unit.

The administrative assistant for Development is LaKina Taplin, who is a high school graduate and was formerly employed by the employer as a registrar. Taplin provides clerical support for the Development Director, Anne Gillingham, including correspondence and filing, and assisting with mail solicitations of donors. The Development division does not handle any matters regarding employee or labor relations. Taplin’s position is full-time and pays \$10.87 per hour.

The data processing employees include a processing lead and two clerks. The data processing personnel enter data into the computer regarding donor contributions, donor records, and general information, and process all memberships. They have an unspecified degree of contact¹¹ with visitor services assistants, who are acknowledged Unit employees, regarding the correctness of information supplied on membership application forms.

¹⁰ The parties stipulated that the following individuals in the Development division are statutory supervisors or excluded managerial employees: Anne Gillingham, director; Bre Brennan, development data processing manager; Karen Hoffman, foundation giving manager; Susan Scratchley, corporate giving manager; Craig Evans, individual giving manager; Angela Lindou, major gifts manager.

¹¹ Described vaguely in testimony as working “closely with”, but lacking any further information.

The “major gifts associate” develops and writes grant proposals for gifts over \$50,000. The position is full-time, salaried at \$29,266 per year. The incumbent is Jocelyn Jungers, who has a bachelor's degree in anthropology. The job description for the position lists as qualifications: at least five years' prior experience in non-profit development activities; research and grant-writing experience; experience working with high-level volunteers; a bachelor's degree, no subject specified; and a graduate-level degree preferred, no subject specified. Jungers reports directly to Anne Gillingham, Director of Development. There is no evidence that Gillingham is involved in any way in labor relations.

Membership, Group, and Event Sales Division.¹²

This division handles sales of memberships¹³ to individuals and families. It also takes care of group sales to non-school entities, such as to tour companies, Boy Scout groups, and conventions. In addition, it rents areas within the facility, such as exhibit halls, classrooms, and theaters, to outside groups. There are four classifications of employees in the division: membership services assistant, membership sales assistant, membership greeters, and courtesy caller. Petitioner would exclude all employees in this division.

The record is somewhat contradictory with respect to the membership services assistant and the membership sales assistant. Employer's Exhibit No. 1, an organization chart, shows only the position of membership services assistant. Employer's Exhibit No. 4 includes job descriptions for both positions. An Employer witness, who did not appear to have any relevant first-hand knowledge, testified both that they are separate positions and that they are the same position. Unfortunately, a more knowledgeable witness who testified later was not asked to clarify.¹⁴ The job descriptions recite that the membership services assistant position is full-time, Monday through Friday, with a wage of \$8.45 per hour, and that the membership sales assistant is part-time on holidays, weekends, and special events and pays \$7.18 per hour. I conclude that there are two such positions.

The job descriptions suggest that the “membership *sales* assistant” was that position referred to by the more knowledgeable witness as involving work at the public entrance to the facility. This person walks along the ticket line, inviting potential one-shot ticket purchasers to purchase a membership on-the-spot, and consummates the sale then and there, or escorts receptive individuals to a table set up nearby where another, unspecified, membership division employee completes the transaction.¹⁵ This would fit in with the weekend, holiday, special events work schedule mentioned in the job description.

The job description for membership *services* assistant suggests that it is office work connected with membership sales, such as responding to telephone inquiries, processing daily mailings, organizing work for volunteers in the area, maintaining an inventory of marketing materials, and “act[ing] as a substitute Sales Assistant when needed.” The record does not reflect how often this might happen.

¹² The parties stipulated that the following individuals in Membership, Group and Event Sales are statutory supervisors or excluded managerial employees: Indu Elliott, director; Deanna Beaton, membership manager; Danielle Burgess, assistant manager of membership; Tana Feichtinger, membership coordinator; Kate Huntz, group sales coordinator; Cindy Massey, facility event coordinator.

¹³ Memberships are annual admission passes sold to members of the general public.

¹⁴ Or perhaps *was* asked to clarify, but the record is incoherent: “Q. And just to clarify those positions would you the membership greeter, the membership services assistant, and the membership sales assistant? A. Yes.”

¹⁵ It appears that such purchase entitles one to immediate, priority admission as a member.

Employees who sell memberships, including membership sales and/or services assistants and employees working in the ticket booths, receive commissions on such sales, ranging from \$1.00 to \$2.50 (apparently in addition to their regular hourly rate) depending on the type of membership sold. On an average day, an employee might sell seven memberships.

There are two “membership greeters” who are employed part-time, primarily on weekends, and earn \$6.97 per hour. They greet members of the public at the admission gate and promote the sale of memberships and respond to questions. The record does not distinguish between their activities in this regard and the similar activities of the other membership employees discussed above.

The “courtesy caller” is Joy Franke, who until she retired was membership manager. The job was created for Franke because of her knowledge of the Employer’s facility and her desire to continue working there in some capacity. She works part-time from her home, calling new members to ask if they have any questions, and calling lapsed members to encourage them to renew. The position pays \$7.18 per hour.

Public Programs and Visitor Services.¹⁶

This division is under the overall direction of director Diane Carlson. There are various groupings of employees working under Carlson, including those in theater operations, visitor education, and visitor services. The parties agree that all employees in this division are to be included in the Unit, except two: the receptionist and the administrative assistant. The Union would exclude them as office clericals; the Employer would not.

The two IMAX theaters, under theater operations manager Phillip Roewe, between them employ about 16 ushers and about five projectionists. Duties of ushers include collection of tickets, distribution of eyewear for 3-D films, and assisting patrons. The record does not reveal any educational or specialized skill requirements for the position. IMAX ushers are employed part-time, including evenings and weekends, and are paid \$7.18 per hour. The parties stipulated that Robert Alexander, lead IMAX usher, is a statutory supervisor.

Duties of projectionists include operation of both 2D and 3D IMAX projection systems, troubleshooting, and making minor equipment repairs. The position requires an unspecified amount of prior audio-visual equipment experience. The position is part-time, paying \$9.56 per hour, with one full-time position paying \$10.87 per hour. The parties stipulated that the IMAX senior projectionist/coordinator, Adam O’Dell, is a statutory supervisor.

Mark Randall is the visitor education manager. Working under Randall’s direction are the science demonstrators and explainers, volunteer coordinators, floor coordinators, entomologist, horticulturist, and animal caretakers.

¹⁶ The parties stipulated that the following individuals in Public Programs and Visitor Services are statutory supervisors or excluded managerial employees: Diane Carlson, director; Phillip Roewe, theater operations manager; Mark Randall, visitor education manager; Marabeth Rogers, science interpreter manager; Holly Haley, science explainer supervisor; Mylen Huggins, volunteer manager; Alissa Spangler, operations manager; Sarah Moore, animal care & kid works manager; Howard Baker, special projects; Skip Cadorette, visitor services assistant manager; Kurt Koller, visitor services operations supervisor; Dawna Kraft, Custodial manager; Stefanie Hare, marketing manager; Laura Dabe, communications coordinator; Dan Spence, graphic design manager; Dannielle Treadwell, special events manager; Jennifer Walton, special events coordinator; Anne Blaine, visitor services trainer & substitute manager.

Science demonstrators and explainers work on the floor of the exhibit hall. There is a stage at one end of the hall where demonstrators present topics such as “liquid nitrogen”, or “hot and cold”, several times a day. Demonstrators report to the science demonstrator supervisor, a position vacant at the time of the hearing. Demonstrators are part-time and are paid \$7.18 per hour. Under “qualifications” the job description lists, “Ability to present demonstrations in an exciting and entertaining manner;” and, “Public speaking experience required; theater background preferred.” There are no educational requirements. There are about 10 science demonstrators, including one lead, who is full-time and is paid \$8.45 per hour. “Experience in theater, public performance, or related field” is among the qualifications for a lead.

“Science explainers” report to Holly Haley, science explainer supervisor. Explainers present informal, interactive science activities called Discovery Carts to small groups throughout the exhibit hall. They are part-time, paid \$7.18 per hour. There are no educational requirements for the position. There are about 23 explainers, including a lead, who is full-time at \$8.45 per hour. Also reporting to Haley is a “fabricator, who puts together and maintains the Discovery Carts. The record does not reveal the fabricator’s hours of work or wages.

In addition, there are eight planetarium demonstrators and a lead planetarium demonstrator, reporting to an unidentified planetarium supervisor. The planetarium demonstrators are part-time and earn \$7.18 per hour, while the lead is full-time and earns \$8.45 per hour. An education *background* in astronomy is required for the lead, but merely preferred for the demonstrators. They present star shows in the on-site Willard Smith Planetarium.

There are about six volunteer coordinators. They prepare a daily schedule of assignments given to volunteers, who are stipulated to be excluded from the unit as non-employees. Over the past year, about 540 volunteers worked in the Employer’s facility. During the school year, there is a volunteer coordinator working only on Fridays and Saturdays; during the summer, daily. There is only one volunteer coordinator on duty at any one time. When not working as a volunteer coordinator, the individuals in the position may also work in other positions, such as science demonstrator or explainer, or animal care, but they are paid the coordinator rate for all of their work. The position is part-time and pays \$7.85 per hour. The parties stipulated that volunteer coordinators are not supervisors. Volunteer coordinators report directly to Mylen Huggins, volunteer manager. There is also a volunteer program assistant, Virginia Vakery, stipulated by the parties to be a statutory supervisor.

Within the Exhibit Hall, there is a Tropical Butterfly House and an Insect Village. “Entomologist” Kristina Williams maintains the insect populations and is in charge of their feeding and care. Williams reports directly to Sarah Moore, animal care manager, works full-time, and is paid \$10.87 per hour. Williams has a Master’s degree in environmental, populations, and organismic biology; the record does not show this to be a requirement. The parties stipulated that she is not a professional employee.

There is also a “horticulturist”, Brian Wilson, also reporting to Moore. Wilson maintains the tropical plants in the Butterfly House, including watering, trimming, and planting new species, and monitors the misting, heating, and cooling systems in the House. He has an AA degree in liberal studies and is completing an AA in horticulture. The record does not show this as a requirement. He is employed full-time and paid \$10.87 per hour.

Moore also supervises the four animal caretakers, who look after the naked mole rats, snakes, ferrets, rabbits, and any other animals in the facility. There are no specific educational or skill requirements for the position, which is part-time and pays \$7.18 per hour.

The science demonstrator, science explainer, and planetarium supervisors all report to Marabeth Rogers, science interpreter manager (excluded), who in turn reports to Visitor Education Manager Randall, as do Huggins and Moore. Also reporting to Randall is Alissa Spangler, operations supervisor (excluded). The 11 floor coordinators report directly to Spangler. (The disputed supervisory status of the floor coordinators is considered elsewhere herein.)

The vacant position of visitor services manager reports directly to Director Diane Carlson. Skip Cadorette is visitor services assistant manager (excluded), and Dawna Kraft is custodial manager (excluded). Reporting to Cadorette is Kurt Koller, visitor services operations supervisor (excluded).

Kraft supervises two lead custodians and seven custodians, who perform traditional custodial work of general cleaning, dusting, sweeping, mopping, vacuuming, and waste removal. Lead custodians are full-time and earn \$9.56 per hour. Non-lead custodians are full- or part-time, and earn from \$7.85 (part-time) to \$8.45 per hour (full-time). The record does not reveal any educational or specialized skill requirements for the position.

Koller supervises five visitor services coordinators, the lead senior visitor services assistant, two lead visitor services assistants, and 18 visitor services assistants ("VSAs"), as well as a receptionist. The parties stipulated that the five VSA coordinators are statutory supervisors. Lead VSAs are full time and earn \$8.45 per hour; non-lead VSAs are part-time and earn \$7.18 per hour. All VSAs have similar duties. They man the two ticket booths located at the public entrance to the facility, where they sell admission tickets to the general public. There are no educational or specialized skill requirements for the position.

In addition, there are two graphic designers in the Public Programs and Visitor Services division. They report to Dan Spence, the graphic design manager (excluded), who in turn reports to Stefanie Hare, marketing manager, who reports to Director Carlson. The graphic designers are responsible for the artwork for brochures, annual reports, ticket handouts, and other handouts. They work in the office area on the lower level of the facility, are full-time employees, with an annual salary of \$24,939 per year. The designers are required to have three years' prior relevant experience, including experience using Macintosh computers equipped with PageMaker, FreeHand, Photoshop, and Microsoft Office.

Petitioner would exclude the receptionist and the administrative assistant for Public Programs and Visitor Services as office clerical employees. The receptionist works in the reception area at the entrance to the main offices on the lower floor of the facility, answering the telephone, distributing the mail, and directing visitors to the office areas. The position is full-time, weekdays, and pays \$9.56 per hour. On weekends, VSAs rotate hourly at the reception desk, answering the phone, etc. There are no educational requirements, but the receptionist must be able to type 50 words per minute.

The administrative assistant for Public Programs and Visitor Services reports directly to Director Carlson. The assistant handles planning for the approximately 10 special events per year for the Twenty-Two Donor Club, whose members have donated \$1000 or more per year. She sends out the invitations; arranges for food; arranges for special guests; and schedules VSAs, science explainers and demonstrators and theater staff as needed for the events. The position is full-time and pays \$12.35 per hour. It requires a minimum of two years' prior clerical experience, ability to type 60 words per minute, and familiarity with Macintosh computers.

Science Division.¹⁷

This division is under the direction of David Taylor, director. Part of the division designs and constructs exhibits, while another part maintains the physical premises.¹⁸ All employees in this division are acknowledged unit employees, except the two evening facility helpers, who are summer employees and stipulated to be excluded by the parties.

Ed Robins (excluded) is the exhibit manager. Reporting to Robins are the exhibit designer, exhibit prototyper, graphic designer temporary, exhibit developer prototyper, and nine exhibit helpers. The employees work in the office area on the lower level of the facility. The exhibit designer (included) is Thomas Head, who makes drawings of proposed exhibits, based on other people's concepts. Later, he makes detailed shop drawings used by fabricators in making the exhibits. Head has a bachelor's degree in fine arts. The position is full-time and pays a salary of \$29,266 per year.

The "exhibit prototyper" is Gail Ethier (included). Ethier makes mock-ups to test ideas for exhibits and to figure out how it will work, so people will understand the concept that is the subject of the exhibit. Ethier has a master's degree in design. The record does not reveal whether the position is full- or part-time, or what the wage is.

The "graphic designer temporary" (included) develops graphics for exhibits. The position has been funded by a grant, but the record does not establish the duration of the funding. The position is part-time and pays \$12.35 per hour. Three years' training or experience using a Macintosh computer, including PageMaker and FreeHand software, is required.

The "exhibit developer prototyper" (included) conceptualizes exhibits and works with the prototyper in developing them. The position is full-time, "based on funding," a reference that is unexplained in the record. The incumbent is Paul Beck, who has a bachelor's degree in music and psychology and a master's degree in linguistics. The record does not reveal Beck's wages.

The exhibit helpers (included) help set up exhibits on the exhibition floor for public viewing. The position is part-time on-call, and pays \$7.85 per hour. The record does not reveal the work history of the exhibit helpers.

Ron Wuethrich (excluded) is the exhibit shop supervisor. He oversees the van exhibit technician and the exhibit fabricator (wood and plastics). The van exhibit technician (included) maintains the exhibits for the SOW program, which involves 25 to 30 table-top exhibits in each van. The technician works in an office located in the facility beneath the Laser Dome, and also spends time in one or another of the workshops when repairing exhibits. The position is full-time and pays \$10.87 per hour.

The exhibit fabricator (wood and plastics) (included) builds exhibits in the facility's wood shop. The position is full time and pays \$12.35 per hour.

¹⁷ The parties stipulated that the following individuals in the Science division are statutory supervisors or excluded managerial employees: David Taylor, director; Ed Robins, exhibit manager; Ron Wuethrich, exhibit shop supervisor; Ken Price, exhibit technician supervisor; Mark Rogers, metal shop supervisor; Marty Bradbury, facilities manager; Jason McCurry, information services manager.

¹⁸ As noted above, building custodians report to Dawna Kraft, in the Public Programs and Visitor Services Division.

Mark Rogers (excluded) is the metal shop supervisor. He supervises the exhibit fabricator (metal shop) (included), and the excluded evening facility helpers. The exhibit fabricator (metal shop) builds exhibits, and works in the facility's metal shop. The position is full-time and pays \$12.35 per hour.

Ken Parke (excluded) is the exhibit technician supervisor. Reporting to him are the exhibit technician assistant and the electronic technician. The exhibit technician assistant (included) is full-time, and is paid \$9.56 per hour. The duties entail routine exhibit maintenance, assistance in construction and refurbishing of exhibits, and assisting in set-up and take-down of exhibits. The electronic technician (included) is also full-time and is paid \$10.87 per hour. Duties include maintenance of electronic elements of exhibits and other tasks related to the electronic aspects of exhibits.

Marty Bradbury (excluded) is the facilities manager. He oversees five employees who maintain the physical plant. The maintenance lead (included) is responsible for general maintenance, including door locks, plumbing, and the heating and misting systems in the Butterfly House. The position is full time and pays \$12.35 per hour.

The HVAC lead takes care of the heating and air conditioning system throughout the facility, and is full-time at \$12.35 per hour. The painter paints, and is full time at \$9.56 per hour. The electrician performs normal electrical maintenance, and is full time at \$14.07 per hour. The facilities assistant assists the other maintenance employees as needed and works part-time at an unspecified wage. (All included.)

There are two information services technicians (included) who report to Jason McCurry, information services manager (excluded). The technicians are responsible for computer support and for making sure the telephones work. They work in cubicles in an area adjacent to the exhibit designer and prototyper. The techs are full-time, paid \$12.35 per hour, and required to have an unspecified amount of prior computer experience. They also assist if a computer in an exhibit crashes. Generally, they work in the office space on the upper level of Building 2, in the same general area as exhibit designers and prototypers, and the education staff.

Additional Particulars.

All employees are subject to the same personnel policies. All full-time employees receive the same benefits, including medical, dental, and life insurance, and paid vacation and sick leave. Part-time employees share with full time employees the benefits of passes to the facility and store discounts.

All *full-time* employees are required to participate in the alternative service program, in which they work for 72 hours each year in a different function, outside their own department. Examples offered in the record are that an accounting office employee may be required to work out on the floor during a camp-in, including sleeping over, or to work in the tots area or animal care; employees who normally work in a public contact area may be required to work in a non-public area; SOW teachers may work in the store. No examples of specific employees' alternative service assignments were offered to the record. Employees who normally work in non-public areas are given training in dealing with the public in preparation for their alternative service assignments. The purpose of the exchange is not for cross-training so that easy substitutions can be made. Rather, it is simply to enhance mutual understanding of what one's fellows do and how the respective employee groups fit into the "big picture."

On the upper level of Building 2 is a large office area divided into cubicles. It appears from the drawing in evidence¹⁹ that the cubicles are set up in groups of four, with an additional full row of work

¹⁹ Employer's Exhibit No. 11.

stations along one wall. SOW employees use that row. In the middle of the room, separated from the SOW staff by a bank of cubicles, are the two information services technicians. The exhibit designer, prototyper, and other exhibits staff also work in cubicles in the room, separated from the SOW staff by at least one bank of cubicles. It appears that others who work in that area are managers and supervisors. There is also an office area on the *regular* level of Building 2, where some education staff and the membership group sales staff work, as does the major gifts associate.

The Employer's main office area is on the lower level of Building 4. It appears that the office area is divided into traditional offices with full walls, rather than cubicles. The accounting staff works in one large room in that area. Also in that area are the marketing staff, human resources staff, the directors of the various divisions, the development data processing employees, the executive director. Along one side of the space is a corridor which provides public access to two Board rooms and to the adjacent Rotary Discovery Lab. The Visitor Services managers and supervisors are located in offices just off the public corridor and across a hall from the accounting office. It appears that VSAs report for work in this office. The graphic designer who is in the Public Programs and Visitor Services division also works in an office in that area.

The record is replete with vague testimony that various classifications "work with" other classifications, in some unspecified manner, at an unspecified frequency. For example, there is testimony that the information services technicians "work with everyone ... across all divisions." (Generic testimony of this type is largely meaningless to the decision-making process.)

The Employer gives preference to in-house candidates for job openings. Many of the current employees have moved from job to job. Evidence shows that of the current employee complement, 26 at some point had moved from jobs in Public Programs and Visitor Services to jobs in Education, and of those, nine went back to jobs in Public Programs and Visitor Services. In addition, six other employees went from jobs in Education to jobs in Public Programs and Visitor Services; the three accounting clerks formerly worked in the café; one Education employee became a sales clerk; two VSAs became Membership and Group Sales employees; and one store clerk became a Membership and Group Sales employee. There is no evidence that any such employees changed jobs on any basis other than personal election.

Some employees hold more than one job. Evidence reveals that 15 employees have jobs in both Public Programs and Visitor Services, and in Education. In addition, one employee works as a sales clerk and in the Education division; two work in the café and in the Education division; one works in the café and in Membership and Group Sales; and three work in both Public Programs and Visitor Services and in Membership and Group Sales. There is no evidence that any such employees work two jobs in different divisions on any basis other than personal election, rather than because the Employer requires such multiple assignments to, for example, facilitate integration of operations.

Unit Conclusions.

Petitioner seeks a unit of all employees in the Finance and Administration, Public Programs and Visitor Services, and Science divisions; excluding all employees in the other three divisions and office clerical employees. The Employer asserts that the only appropriate unit is a wall-to-wall unit, including office clericals. As always, a petitioner gets its choice of unit as long as it is *an* appropriate unit. There may be other units that are also appropriate, or even "more appropriate", but that does not supervene a petitioner's permitted choice.

The Employer has six divisions, but Petitioner seeks only three of them. I have examined the three-unit segment sought and concluded that is not an appropriate grouping when defined in a division-centered manner. In order to segment out certain administrative sub-elements of an employer's operation, while retaining others, there must be shown to be a separate, uniting community of interest among those included, as well as something that separates or differentiates that grouping from the others.

In the instant case we have seven major distinguishing factors among employees:

1. Those who work directly with the general, walk-in public v. those who work with teachers or other pre-set groups.
2. Those who are hourly paid v. those who are salaried.
3. Those whose pay - whether adjusted to an hourly basis, or paid by the hour - is significantly higher than the others'.
4. Those who work regular "business" hours v. those who work weekends, holidays, special events and evenings.
5. Those who work on-site v. those who work away.
6. Those whose positions require advanced education v. those whose positions require none.
7. Those whose work might be considered "blue collar" v. those who have "white collar" positions.

Clerical Employees

The Board ordinarily excludes office clerical employees from units of other employees, where a petitioner is not seeking to represent such employees. This is done on community of interest grounds. Typically, as here, office clericals work regular "business" hours, work in a physically separated, office setting, utilize office equipment, work at a desk, and perform an administrative function. Generally, they are administratively distinct as well.

The employees Petitioner contends are office clerical employees are the accountants,²⁰ accounts receivable and grant analyst, accounts payable bookkeeping, and accounting clerks in Finance and Administration; registrars, education administrative specialist, education administrative assistant, and Science on Wheels office assistant in Education; administrative assistant for development, data processing lead, and development data processing clerks in Development; administrative assistant for Public Programs and Visitor Services, and receptionist in Public Programs and Visitor Services.²¹

The record reflects that all such employees perform work typical of office clerical employees, such as accounting, bookkeeping, typing filing, and answering telephones. They spend all of their regular work time in offices.

²⁰ Petitioner contends that the accountants are professional employees. The record does not establish that the accountants meet the definition of professional employee in Section 2(12) of the Act. In particular, the evidence fails to establish that the duties of the accountants require the type of advanced knowledge that is an essential element of professional status. I would not, therefore, find the accountants to be professionals employees.

²¹ Petitioner contends that the administrative assistant for Development, administrative specialist for education, education administrative specialist, and SOW office assistant are confidential employees. The record fails to establish that any of these employees assist any person who formulates, determines, and effectuates management policies in the field of labor relations. *B.F. Goodrich Company*, 115 NLRB 732 (1956). Thus, I would not find any of these employees to be confidential employees.

I conclude that the accountants, accounts receivable and grant analyst, accounts payable bookkeeping, and accounting clerks in Finance and Administration; registrars, education administrative specialist, education administrative assistant, and Science on Wheels office assistant in Education; administrative assistant for development, data processing lead, and development data processing clerks in Development; administrative assistant for Public Programs and Visitor Services, and receptionist in Public Programs and Visitor Services are all office clerical employees.

The office clericals do not perform any of the “production” and maintenance work of the sought employees. They do not regularly interchange with any sought employees. Their limited amount of “alternative service”, amounting to 72 hours per year, or about 3.3% of an annual 40-hour week, does not amount to significant enough interchange to delete the boundary between office clericals and the rest of the sought unit. This work is not assigned for cross-training purposes to facilitate interchange. Rather, it is done to enhance understanding among employees of others’ roles in the organization. There is no specific evidence as to the alternative service assignments of any of these employees in the past year. Similarly, the fact that on weekends the VSAs (included) are assigned on a rotating basis to sit at the receptionist desk outside office hours, apparently to answer the telephone and give directions as necessary to any visitors, does not convert the receptionist from an office clerical employee to a unit employee, or the VSAs into office clericals. (There is no indication the VSAs type as a regular part of their work as receptionist and must possess typing skills).

Petitioner contends that the major gifts associate is a confidential employee and a professional and/or managerial employee. Although the major gift associate, Jungers, may be privy to “confidential” information regarding major donors to the Employer, there is no evidence that she assists any person who is involved in the Employer’s labor relations, and thus she is not a confidential. Jungers has a bachelor’s degree in anthropology, but there is no evidence that the position of major gifts associate requires a prolonged course of study in anthropology. Therefore, Jungers does not meet the definition of a professional employee in Section 2(12) of the Act. A “managerial” employee is defined by the Board as “executives who formulate and effectuate management policies by expressing and making operative decisions of their employer.” *Bell Aerospace*, 416 U.S. 267 (1974); *Palace Laundry Dry Cleaning*, 75 NLRB 320 (1947). There is no evidence that Jungers does that, and therefore she is not a managerial employee. In addition, I note that there is a major gifts manager, Angela Lindou, supervising Jungers. Jungers is perhaps specialized and high-level, but nonetheless I find her to be an office clerical employee excluded from the Unit.²²

In the instant case, the one factor that does not entirely fit the idealized office clerical paradigm is that the Finance and Planning division includes some clearly office clericals, but also includes many clearly non-clerical positions, i.e., the food services staff and the staff of the two retail stores. Each of these groupings, however, has its own, separate Manager who reports to the Associate Director heading the Division. Thus, these non-clericals are administratively segregated under separate Managers. Those Managers have no clerical employees who report to them.

Accordingly, it is appropriate overall to exclude all office clericals as a group from any unit.

²² No party contends that Jungers is a technical employee, nor would I find her to be one. The Board defines technical employees as those who do not meet the Act’s definition of “professional employees” but whose work is of a technical nature, involving the use of independent judgment and requiring the exercise of specialized training usually acquired in colleges or technical schools, or through special courses. *Folger Coffee Co.*, 250 NLRB 1 (1980). There is no evidence that Jungers has any specialized training at all or that such training is required for her position.

Teachers and Related Positions

Employees in the Education Division support a distinct, separate function, primarily that of providing education science experiences to schools and other venues, and related workshops for teachers.

There is no evidence of any regular interchange between Education Division employees and sought employees. The fact that several individuals who are employed in conceded Unit positions also hold other positions in the Education Division²³ does not constitute evidence of interchange, as there is no evidence that any employee holds two or more jobs on any basis other than personal choice. There is no indication they are assigned these dual functions by the Employer to enhance integration of operations, as opposed to just giving an individual more hours, as appears to be the case. Conceded Unit employees are not regularly assigned to work in Education Division positions, nor does the reverse occur.

Further, record evidence of contacts among Education Division and Unit employees does not establish that such contacts occur on any regular, frequent basis, or that those employees regularly work side-by-side while performing in their respective classifications. The relative proximity of some agreed-upon Unit employees' work areas to the work areas of some Education Division employees, does not constitute evidence that such employees *work* side-by-side, particularly to enhance work integration, as opposed to the randomness of available space at a particular time, or even that they have frequent work contacts with each other. There is no evidence of any functional integration between Education Division employees and conceded Unit employees.

Even though many of the exhibits and equipment for demonstrations are similar to, or even identical with, exhibits and equipment used in the Pacific Science Center itself, clearly the activities of the SOW and community education teachers who make presentations using the exhibits and equipment are different. The teachers have bachelor's degrees,²⁴ which distinguishes them conspicuously and severely from the science explainers and demonstrators. Further, the Employer prefers candidates for the position of science demonstrator to have a theatrical background; they are required to have the ability to "present demonstrations in an exciting and entertaining manner," an ability not required of teachers. Clearly, while presentations offered to the general public at the Employer's facility aspire to entertain as well as to educate, there is a much more serious educational thrust underlying the presentations made by the Education Division teachers. Their work is directed towards teaching teachers, or towards formal inclusion as part of the school curriculum.

Other employees in the Education Division provide support and ancillary activities related to the division's primary function. The summer camps and camp-ins are special programs for school-age children and are not open to the general (i.e., walk-in) public in the same sense that the Employer's facility itself is. These activities, while conducted on the premises of the Employer's facility, are carried out almost entirely separately from the activities presented to the general public. The employees engaged

²³ If an individual has one job within the Unit as it will be defined here, and another job outside, it does not mean both positions are in the Unit. If both positions are in the Unit, the employee still is entitled to only one vote.

²⁴ Petitioner contends that at least the Waste Buster lead teacher, Brain Power lead teacher, community education teacher, and teacher educators are professional employees. The record does not establish that community education teachers and teacher educators are among those teachers required to have a teaching credential, and is otherwise insufficient to establish whether the Employer's teachers meet the requirements of Section 2(12) of the Act. I take administrative notice that the state of Washington requires that candidates for a teaching credential have a bachelor's degree; have completed an approved college or university teacher preparation program; and have completed a major in one endorsement area. The teachers herein may be professional employees, but the record deficiencies preclude such finding here.

in the summer camp and camp-in activities are hired for those specific purposes; they are not conceded Unit employees who are also assigned to work as summer camp teachers, assistants, aides, or camp-in instructors as part of their regular duties.²⁵ Further, as with other teachers in the Education Division, the Employer seeks individuals with bachelor's degrees to fill the summer camp and camp-in positions.

The teachers, summer camp teachers, summer camp assistants, summer camp aides, and camp-in instructors are required to have a higher level of formal education than that required of acknowledged Unit employees. These individuals are at least quasi-professionals, akin to technical employees, and their interests differ from those of the conceded Unit employees. They are generally salaried and many work off-site, with overnight travel. They generally work directly with certificated teachers, not the general public. Their pay is generally substantially higher than those sought by Petitioner.²⁶ The overnight camp-in instructors must have a degree or be pursuing same at the college level. It is appropriate to exclude them. The summer camp assistants and summer camp teacher aides are not required to have advanced degrees, but the Employer looks for an education beyond high school and in the subject area concerned, and prefers a degree. These latter individuals work closely with the teachers and instructors. Thus, the Education Division forms a distinctly separate group from the employees sought by Petitioner.

The Development Division consists of stipulated exclusions, plus the administrative assistant, the major gifts associate, the (data) processing lead and the data processing clerks. All of these latter classifications are clearly office clerical types. Thus, the entire division has been excluded.

The Education Division consists entirely of stipulated exclusions, excluded office clerical/administrative types and the distinctly separate advanced education "teacher" grouping. Thus, the entire division has been excluded.

The Cohesive Separateness of the Unit

While all employees share the same benefits, differentiated only by full- or part-time status, and other conditions of work such as paydays, personnel policies, and so on, I conclude that the acknowledged Unit employees share a community of interest distinct from the interests of the Education division employees. No other labor organization is seeking to represent the acknowledged Unit employees in an alternate unit, and there is no history of collective bargaining.

The grouping that the Petitioner seeks to represent is predominantly paid in the \$7-\$8 range, generally deals with the walk-in public directly, is hourly-compensated, requires no academic education beyond high school, works on-site, and performs unskilled and/or blue collar type work. The staff of the three sought divisions, once the non-employees and office clericals are excluded, meet all, or most, of

²⁵ Any food services, theater, or store employees assigned to work during camp-ins are assigned to perform their regular duties on those occasions. There is no evidence that any full time acknowledged Unit employees are assigned to work as summer camp teachers or camp-in instructors for their "alternative service."

²⁶ The science education associates are interns, employed for a term of one year. As such they can be excluded as temporary employees. They are also an integral part of the teacher education aspect of the Employer's operations. It is appropriate to exclude them.

The traveling exhibits lead spends 80% of his time on the road, including foreign travel. His work is not functionally integrated with the Unit employees, and there is no evidence of contact with them. He has some blue-collar functions, and seemingly no clerical functions. I conclude it is appropriate to exclude him, based on the vastly different community of interest and the fact that he is not administratively included with the other exhibit builders/fixers, but rather included with the teachers and other exhibit-travelers in the Education Division.

these criteria. True, the exhibit builders and tradespersons are generally higher-paid than the others in this grouping – some in fact paid in the range of the teachers - and don't serve the public directly. However, they match the rest of the conceded Unit regarding the rest of the seven significant distinguishing criteria listed supra, and the excluded employees do not.

There are a few exceptions which undercut the Petitioner's three-divisions-in, three-out dichotomy. The membership sales assistant and the membership greeters, both assigned to the Membership Group and Event Sales Division, are much more closely related to the divisions sought than to the divisions to be excluded: They work on-site, are hourly-paid, in the lower-pay echelon, require no special education, work with the walk-in public directly, work "non-business" hours and are integrated into that product-delivery function. Therefore, I conclude they must be included with those in the other three divisions sought.

The membership greeters spend all their work time outdoors talking to members of the general public who are waiting in line to gain admission. Thus, they are involved in the same function as Unit employees, that of supporting the Employer's presentations open to the general public. They are not required to have any education or specialized skills and are indistinguishable in this regard from Unit employees such as VSAs, food service employees, store sales associates, or IMAX ushers. They work on weekends, holidays, and special events, unlike the clerical employees, but much like the Unit. Their wages are in the range of most Unit employees. Their work is functionally integrated with that of Unit employees, in that they are in many cases the first employee encountered by a member of the public seeking to visit the facility - the first line of defense, so to speak - for answering questions and providing information. On days when membership greeters are not present, the VSAs in the ticket booths are obliged to answer questions and provide information which would otherwise be provided by the membership greeters.

As has been said above, the record is somewhat murky with respect to membership services assistants and membership sales assistants. However, based on the record as a whole, I conclude that the membership sales assistants work outdoors talking to members of the general public who are in line at the ticket booths, and then and there sell memberships to some of those persons, either in the line itself or at a table set up for that purpose. The memberships are an alternative form of admission ticket for the general public, a term ticket instead of a single-occasion ticket. Thus the work of these employees is functionally integrated with that of Unit ticket-seller employees, and similar in pay (except for the commission aspect of their remuneration), hours and direct public contact to that of the Unit members. Accordingly, I shall include them in the Unit. On the other hand, the work of the membership services assistant is basically an indoor, office clerical type position. For that reason, I shall exclude them from the Unit.^{27 28}

²⁷ The education materials assistant, who works – seemingly alone - in an off-site warehouse, several miles distant, performs repair and maintenance work on exhibits used by SOW teachers. There is no evidence that he has any regular contacts or interchange with any Unit employees. However, his work is neither clerical nor teacher-like, is related to that done by Unit exhibit makers, and has "warehouse" aspects. Since he is an isolated employee, has some community of interest with the Unit, and has nowhere else to "go", I shall include him in the Unit.

²⁸ The "courtesy caller" is a special position that was created for the incumbent, based largely on her pre-retirement, high-level position with the Employer. She is unique in that she works out of her home. Her work is entirely phone work, making follow-up courtesy calls to new members or renewal calls. It may well be that she should be excluded from the Unit simply on the basis of lack of community of interest, due to her favored position. However, I conclude that she should be excluded because of her unique work-at-home arrangement, the special circumstances surrounding the creation of her position, and the fact that the position is more akin to an office clerical – albeit a "home clerical" – than it is to any of the Unit personnel.

In conclusion, we are left with an appropriate Unit, in simplest terms, of all employees, excluding office clericals, “teacher-types” and the usual exclusions of guards, supervisors, professionals and confidentials. The teachers and the clericals lack a community of interest with the rest of the employees. The Unit is a cohesive group, readily distinguishable on multiple significant factors from the rest of the employees.

Floor Coordinators: Supervisors?

The eleven “floor coordinators” report directly to Alissa Spangler, operations supervisor, who in turn reports to Marabeth Rogers, science interpreter manager reporting to Mark Randall, visitor education manager in Public Programs and Visitor Services. Floor coordinators are employed part-time, up to 32 hours per week, and work both weekdays and weekends. They are paid \$7.85 per hour. Floor coordinators normally work in other positions “on the floor”, but those selected for the coordinator position also rotate into it one day at a time. There is only one such coordinator on duty each day.

Marabeth Rogers, the Science Interpreter Manager (excluded), schedules the work days and hours of the part-time staff in Public Programs and Visitor Services who work on the exhibit hall floor. Such staff includes science explainers and demonstrators, planetarium demonstrators, volunteer coordinators, and floor coordinators. Rogers writes a weekly schedule which details for each day the names of the employees who will be working that day and the general classification they will be filling that day.

The floor coordinator for that particular day then fills out a more detailed schedule for the day, slotting employees into various tasks in half-hour increments. The tasks include: information desk, tot area, tide pool, rat handling area, virtual reality hoops, high rail bike, entrance guard and exit guard for the Butterfly House, interpreter in the Butterfly House, STAR show, Discovery Carts, demonstrations, and kayaks. Some tasks, such as information desk, tot area, virtual hoops, high rail bike, and entrance and exit guards at the Butterfly House, are covered every “open” hour of every day. Others, such as STAR show, and the carts and demonstrations, are covered only a few hours each day, allowing the explainers and demonstrators who do those jobs to have a “break” and do less intensive work the rest of the day.

Floor coordinators are paid for up to two hours schedule-writing time; they can do it at home if they wish. Typically, there are 8 to 14 employees assigned by Rogers to any one day; there may be volunteers available as well, the number depending on the day. A floor coordinator testified that he assigns science explainers to Discovery Carts, science demonstrators to do demonstrations, and planetarium demonstrators to the STAR show. Otherwise, he arbitrarily assigns employees to spots on the schedule, without regard for skill or ability.

Floor coordinators are expected to assign duties fairly by moving employees around during the day, not giving any one person the same duty twice in one day, and providing some “presentation” time on the carts and demonstrations. Floor coordinators also schedule breaks for employees. They can adjust the schedule during the day as necessary. For example, if enough staff are present, the floor coordinator can decide to open another position (such as an interpreter in the Butterfly House, or the rat handling area, or another Discovery Cart.)

On occasions when there are more staff present than are needed, such as an under-attended special event, the floor coordinator can ask employees if they want to leave early. In some instances, the floor coordinator can “allow” an employee to work through a break and be paid for the time. This can occur when the employee assigned to be the “8:55 greeter” goes out to the front gate 20 minutes before the official opening time of 9:15, a.m. to admit staff and volunteers. If that person is scheduled for a four-hour shift, with a half-hour “off” at the end, they could end their shift at four hours, or could continue to

work until 1:00 p.m. as usual and get an extra half-hour of paid time. The employee ultimately has the choice of leaving or staying, when the “leaving” option is available.

Floor coordinators are given a 30-page manual which details the responsibilities and parameters of the job, including four and one-half pages devoted to writing the schedule. Other topics in the manual are: expectations and standards; a day in the life of an FC; the FC log; dress code; dealing with complaints; lost children and other on-floor emergencies; meetings; assisting operations/keeping busy; and time sheets.

A floor coordinator may write an “incident report” about an employee, and discuss the problem with the employee. Such reports are then given to the operations supervisor, Spangler. It appears that Spangler relays them to her superior, Marabeth Rogers, who makes the determination on whether, and what, further action is to be taken. There is no evidence that the floor coordinators make any recommendations concerning discipline. Floor coordinators keep a daily log, in which they note the names of employees who arrived early or late, or were sick or otherwise absent, unusual occurrences, and positive comments about employees. There is no evidence that floor coordinators make any recommendations for discipline or reward on such logs.

Floor coordinators are expected to “speak to” employees who are not conforming to Employer policy. Employees who have gathered in a small group to talk among themselves (called “clumping” in the Employer’s vernacular) are advised by the floor coordinator to return to their duties. Employees who appear for work improperly dressed are reminded by the floor coordinator to show up wearing proper clothing next time. There is no evidence that floor coordinators have authority to discipline employees, or to recommend discipline.

The floor coordinator tours the exhibit floor on an hourly basis, keeping an eye out to make sure the employees are maintaining the rotation schedule and are attending to their duties. The floor coordinator carries a two-way radio, and responds to any reported problems. Floor coordinators review the employees’ time sheets, comparing them to Rogers’s schedule for the day, and initial them. If there are discrepancies, the floor coordinator points them out to higher authority.

Section 2(11) of the Act defines a “supervisor” as:

...[A]ny individual having authority, in the interest of the Employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly direct them, or to adjust their grievances, or effectively recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

Possession of any one indicium is sufficient to confer supervisory status, but it must also entail independent judgment. The burden is on the party asserting supervisory status to prove same.

There is no contention by the Employer that floor coordinators have any authority to hire, transfer, suspend, lay off, recall, promote, discharge, or reward, or to adjust grievances. The authority of the floor coordinators to “assign” employees is circumscribed by Employer policy and instructions, and amounts to nothing more than a lead person telling employees pre-assigned to the crew by an supervisor which one will do which portion of their job at a particular time. The floor coordinators’ role with respect to time sheets is a routine, clerical matter of ensuring that a time sheet for each employee is submitted every other week, and that the time sheet is complete and accurate.

The record does not establish that floor coordinators have any authority to discipline employees. Their authority to tell employees not to “clump,” or to seek adherence to the dress code, or to submit an incident report, does not amount to authority to discipline, inasmuch as the record does not establish that any further action is taken by higher authority based on those actions, or that floor coordinators make *any* recommendations concerning discipline. That comments by floor coordinators in incident reports and daily logs may be considered later by higher authority for evaluation purposes does not establish that floor coordinators possess any indicia of supervisory status, as the record fails to show that floor coordinators make any *effective recommendations*, or even whether or how such incident reports and/or daily log comments are actually used with respect to evaluations. Possession of the responsibility to “report” to superiors on employees’ attendance or conduct, without more, does not make one a statutory supervisor.

Any minor instructions given by floor coordinators to other employees have not been shown to amount to responsible direction. Furthermore, there is no evidence that any of the duties of floor coordinators require the use of independent judgment with respect to their alleged supervisory authority. That a floor coordinator may sometimes use some discretion in deciding that employee A is better suited to some task than is employee B, and schedule them accordingly, does not establish that the scheduling done by the floor coordinators *requires* the use of independent judgment, inasmuch as the scheduling can be done without making any such assessments. Moreover, the tasks are largely pre-assigned and the assignments obvious. It is also noted that most tasks are simply rotated.

Moreover, the Board has found that supervisory authority is not vested in employees who “supervise” their equals one day and are in turn “supervised” by those equals on another day. *General Dynamics Corp.*, 213 NLRB 851, 859 (1974); *Providence Hospital*, 320 NLRB 717 (1996). Here, an individual will typically work in the capacity of floor coordinator one day, and for the next many days be working on the floor in another Unit capacity, such as science explainer, under the “supervision” of other floor coordinators.

I conclude, therefore, that floor coordinators are not supervisors within the meaning of the Act. Accordingly, they are included in the Unit.

There are approximately 181 employees in the unit.

DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the undersigned among the employees in the unit found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility period and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL NO. 6, AFL-CIO.

NOTICE POSTING OBLIGATIONS

According to Board Rules and Regulations, Section 103.20, Notices of Election must be posted in areas conspicuous to potential voters for a minimum of three working days prior to the date of election. Failure to follow the posting requirement may result in additional litigation should proper objections to the election be filed. Section 103.20(c) of the Board's Rules and Regulations requires an employer to notify the Board at least 5 full working days prior to 12:01 a.m. of the day of the election if it has not received copies of the election notice. *Club Demonstration Services*, 317 NLRB 349 (1995). Failure to do so estops employers from filing objections based on nonposting of the election notice.

LIST OF VOTERS²⁹

In order to assure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses that may be used to communicate with them. *Excelsior Underwear*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Co.*, 394 U.S. 759 (1969). Accordingly, it is hereby directed that an election eligibility list, containing the alphabetized full names and addresses of all the eligible voters, must be filed by the Employer with the Regional Director for Region 19 within 7 days of the date of this Decision and Direction of Election. *North Macon Health Care Facility*, 315 NLRB 359, 361 (1994). The list must be of sufficiently large type to be clearly legible. The Region shall, in turn, make the list available to all parties to the election.

In order to be timely filed, such list must be received in the Regional Office, 915 Second Avenue, 29th Floor, Seattle, Washington 98174, on or before September 18, 2000. No extension of time to file this list may be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the filing of such list. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed. The list may be submitted by facsimile transmission to (206) 220-6305. Since the list is to be made available to all parties to the election, please furnish a total of 4 copies, unless the list is submitted by facsimile, in which case only one copy need be submitted.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive

²⁹ On brief, Petitioner requests that the List of Voters include the employee's classification, job title, and department. The Board does not require the inclusion of such information. Petitioner has failed to show any good cause why such information should be required here, and I decline to make any such requirement. The Employer may, of course, voluntarily provide the information if it wishes, as it would, among other things, facilitate the actual voting process.

Secretary, 1099 - 14th Street N.W., Washington, D.C. 20570. This request must be received by the Board in Washington by September 25, 2000.

DATED at Seattle, Washington, this 11th day of September, 2000.

/s/ RAYMOND D. WILLMS

Raymond D. Willms, Acting Regional Director
National Labor Relations Board, Region 19
2948 Jackson Federal Building
915 Second Avenue
Seattle, Washington 98174

177-8580-9900
420-4633
420-5034
420-7303